



Dan Bucks
Director

Montana Department of Revenue

SENATE TAXATION

EXHIBIT NO. 1



1.30.09

SB 280

Brian Schweitzer
Governor

To: Senate Taxation Committee

From: Randy Wilke, Administrator *RW*
Property Assessment Division

Re: Senate Bill 280 – Informational Request from Senator Robert Story

Legislative Informational Request:

What is the policy of the Department regarding the taxation of farm implements and heavy equipment that are under a rental or lease agreement?

Response:

There are no "department policies" in this area other than current law, so that under current law, farm implements and heavy equipment that are under a rental or lease agreement are taxable. That property is identified as Class 8 property and it does not meet the requirements of any current exemption statutes.

There are three laws that address rental and lease property. The first statute is 15-6-138, MCA. Farm implements and heavy equipment are considered Class 8 property under 15-6-138, MCA. Under (1)(e) of 15-6-138, MCA, "all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class," are considered Class 8 property and are taxed at 3% of its market value.

The second statute, 15-6-202, MCA is an exemption statute. As stated in current law, "(1) Freeport merchandise and business inventories are exempt from taxation, and (5) Business Inventories includes goods primarily intended for sale and not for lease in the ordinary course of business and raw materials and work in progress with respect to those goods. "Business inventories" do not include goods that are leased or rented."

The third statute, 15-6-219, MCA, is also a property tax exemption statute. It addresses lease and rental property and provides for following specific requirements:

- The acquired cost of the personal property must be less than \$15,000, and
- The personal property must be owned by a business whose primary business income is from rental or lease of personal property to individuals, and
- No one customer of the business can account for more than 10% of the total rentals or leases during a calendar year; and
- The lease of the personal property must be on an hourly, daily, or weekly basis.

The primary business of farm implement and heavy equipment dealers is the sale of that equipment. Dealer purchase incentive rental programs involve dealers leasing equipment to an individual or company. The lease payments may be applied against the sale price of the equipment, but they are nonetheless lease or rental payments involved in the program. Based on the previously identified statutes, farm implements and heavy equipment that are rented or leased by dealers are taxable.